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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN FRANCISCO DIVISION  
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15 UNITED STATES OF AMERICA, ) CR No. 08-70879 EMC  
16 Plaintiff, ) STIPULATION AND [PROPOSED] ORDER  
17 v. ) WAIVING TIME UNDER FED. R. CRIM. P.  
18 MARIO JUAREZ, ) 5.1 and EXCLUDING TIME UNDER 18  
19 Defendant. ) U.S.C. § 3161  
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23 This is the second request to extend the time for the preliminary hearing under Federal Rule  
24 of Criminal Procedure 5.1, to extend the 30-day time period for indictment and exclude time  
25 under the Speedy Trial Act. On January 7, 2009, at the detention hearing in this matter, the  
parties initially requested an extension until January 30, 2009.

26 The parties now request a further extension until February 27, 2009. With the agreement of  
27 the parties the Court enters this order setting a new preliminary hearing date of February 27, 2009  
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1 at 9:30 a.m. before the duty magistrate judge, extending the time for the preliminary hearing  
2 under Federal Rule of Criminal Procedure 5.1, extending the 30-day time period for indictment  
3 and excluding time under the Speedy Trial Act from January 30, 2009 to February 27, 2009.

4 The parties agree, and the Court finds and holds, as follows:

5 1. The production and review of discovery is currently ongoing. Only after evaluating the  
6 evidence will counsel be in a position to evaluate any disposition. Counsel believes it is in her  
7 client's best interest to negotiate the case pre-indictment, and she cannot do that without  
8 evaluating the evidence.

9 2. Taking into account the public interest in the prompt disposition of criminal cases, the  
10 parties agree, and the Court holds, that these grounds are good cause for further extending the  
11 time limits for a preliminary hearing under Federal Rule of Criminal Procedure 5.1 and extending  
12 the 30-day time period for indictment.

13 3. Failure to grant an exclusion of time for the requested continuance would deny counsel for  
14 defendant the reasonable time necessary for effective preparation of counsel. 18 U.S.C. §  
15 3161(h)(8)(B)(iv). Therefore, the Court finds that a further exclusion of time from January 30,  
16 2009 to February 27, 2009, is warranted because the ends of justice served by the exclusion of  
17 time outweigh the best interests of the public and the defendant in a speedy trial. 18 U.S.C. §  
18 3161(h)(8)(A).

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1       4. Accordingly, and with the consent of the defendant, the Court (1) vacates the January 30,  
2 2009 preliminary hearing date and sets a preliminary hearing date before the duty magistrate  
3 judge on February 27, 2009 at 9:30 a.m., and (2) orders that the period from January 30, 2009 to  
4 February 27, 2009, be excluded from the time period for preliminary hearings under Federal Rule  
5 of Criminal Procedure 5.1 and from Speedy Trial Act calculations under 18 U.S.C. §  
6 3161(h)(8)(A) & (B)(iv).

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8 STIPULATED:

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10 DATED: January 29, 2009

/s/  
RITA BOSWORTH  
Attorney for Mario Juarez

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12 DATED: January 29, 2009

/s/  
KATHERINE DOWLING  
Assistant United States Attorney

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14 IT IS SO ORDERED.

15 DATED: 1/29/09

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